REMARKS

Applicants will address each of the pending matters in the order in which they appear in the Office Action dated March 30, 2007.

Claim Objections

Claims 8-11 have been objected to for being in a multiple dependent form. By amendment, above, Applicants have amended Claims 8-11 to be singly dependent upon Claim 1 and ask for reconsideration and withdrawal of this objection.

Rejection of Claims 1-3, 5-7, 13 and 17 under 35 U.S.C. 102(b)

Claims 1-3, 5-7, 13 and 17 have been rejected under 35 U.S.C. 102(b) as anticipated by Wilson et al. (WO 99/36060). Applicants have clarified the invention of Claim 1 by adding the passages from Claims 13 and 16 wherein the unit dosage form comprises an excipient or combination of excipients, wherein said excipient or combination of excipients comprises greater than about 50 wt% of a diluent or combination of diluents selected from the group of lactose monohydrate, lactose anhydrous, microcrystalline cellulose or sodium chloride. Wilson et al. do not disclose compositions having this weight percentage of diluents selected from the specified group.

In view of this amendment, Applicants respectfully request reconsideration and withdrawal of the rejection of Claims 1-3, 5-7, 13 and 17 under 35 U.S.C. 102(b).

Rejection of Claims 1, 4, 12, 14 and 15 under 35 U.S.C. 103(a)

Claims 1, 4, 12, 14 and 15 have been rejected under 35 U.S.C. 103(a) as unpatentable over Wilson et al. (WO 99/36060) in view of Kerc et al. (WO 02/072073). Applicants have amended Claim 1 and ask for reconsideration of this rejection.

Wilson et al. disclose pharmaceutical formulations that may include atorvastatin (page 5, lines 27-28), but do not teach or suggest excipient or combination of excipients comprising greater than about 50 wt% of a diluent or combination of diluents selected from the group of lactose monohydrate, lactose anhydrous, microcrystalline cellulose or sodium chloride, as seen in amended Claim 1. Wilson et al. teach numerous examples of specific pharmaceutical formulations, none of which utilize the diluents of amended Claim 1. The compositions taught by Wilson et al. are directed toward oral liquid medicaments that can also be used to fill soft capsules or solidified to be used in hard capsules. Nothing taught by Wilson et al. would direct one skilled in the art to choose the diluents of the present invention or suggest their use without a granulation step to prepare compositions of the present invention.

The disclosure of Kerc et al. is cited for their disclosure of differing forms of atorvastatin. Applicants submit this information adds nothing to support the present rejection. Regardless of the active ingredient used, the Wilson et al. compositions are notably different from and do not suggest to those skilled in the art the unit dosage forms of amended Claim 1.

In view of the foregoing, Applicants ask for reconsideration and withdrawal of the rejection under 35 U.S.C. 103(a).

Provisional Obviousness-type Double Patenting

Claims 1-17 have been provisionally rejected on the ground of non-statutory obviousness-type double patenting over Claims 1-22 of co-pending application no. 10/828,398 and Claims 1-17 of co-pending application no 10/828,079. Applicants acknowledge the present rejection. In light of the provisional nature of the rejection, Applicants will address the matter when one of the relevant sets of claims has been allowed.

Applicants believe this application is now in condition for allowance. A decision to that effect is respectfully solicited.

Respectfully submitted,

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